

REMARKS

Claims 1-9 and 11-41 are now pending in the current application. By this Amendment, claims 1-3, 5, 8-9, 11-14, and 18-23 have been amended and new claims 30-41 have been added.

Rejections under 35 U.S.C. §112, Second Paragraph

Claims 1-3, 8 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection. As shown above, Applicants have amended claims 1-3 and 8-9 to delete “substantially,” and therefore request withdrawal of this rejection.

Rejections under 35 U.S.C. §102(b)

Claims 1-18, 20-23, 25-27 and 29 stand rejected under 35 U.S.C. §102(b) as being anticipated by Yoshito et al. (hereinafter “Yoshito”), Japanese Patent Publication No. JP 9-081938. Applicants respectfully traverse this rejection.

Applicants submit that Yoshito does not disclose all the features of independent claims 1-3, 8, and 9. For example, the independent claims recite, *inter alia*, “the wobbled pits are formed intermittently and alternately with the straight pits within the control data area.” The Examiner alleges that Yoshito discloses,

a control data area (management data field 32) including pits formed along tracks, with data recorded therein, wherein pits in some portions of the tracks are formed as wobbled pits (displacement pit train 41), pits in other portions of the tracks of

the control data area are substantially formed as straight pits (track 40, where data must be recorded in straight pits in order to be distinguished by the displacement pit train 41), and the wobbled pits are formed at least one of intermittently and alternatively with the straight pits within the control data area, where the displacement pit train 41 is repeated several times on track 40, and there are also straight pit sections found within displacement pit train 41. Action at 3-4.

Applicants agree with the Examiner that displacement pit train 41 may correspond to the claimed "wobbled pits" and track 40 (other than areas 41) may correspond to the claimed straight pits, however, the Examiner's allegation that displacement pit train 41 includes "straight pits" as claimed is incorrect. Yoshito discloses displacement pit train 41 including pits that lie on a center line, above the center line, and below the center line. See, Figure 5c. Applicants submit that it is the combination of this up/center or center/down formation of pits that correspond to the claimed wobbled pits. Therefore, displacement pit train 41 does not disclose "straight pits" as claimed because the alleged "straight pits" are in fact part of the wobbled pits.

Applicants further submit that Yoshito does not disclose the claimed wobbled pits formed "intermittently and alternately" with the straight pits. For example, Yoshito discloses an alternating regular pattern of track 40 with trains 41. See, Figure 5c. Therefore, Yoshito does not disclose "intermittently and alternately" as claimed.

In addition, independent claims 1-3 and 9 have been amended to include "the control data area includes a plurality of data units, and the wobbled pits are formed in at least one data unit preceded by the straight pits or followed by the straight pits." Applicants

respectfully submit that Yoshito does not disclose this claimed at least one data unit.

Therefore, Applicants submit that independent claims 1-3 and 8-9 are allowable as are dependent claims 4-7, 11-18, 20-23, 25-27 and 29 at least for depending from allowable base claims. In addition, Applicants submit that newly added dependent claims 30-41 are allowable as well.

Rejections under 35 U.S.C. §103(a)

Claims 19, 24 and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshito in view of Minamino et al. (hereinafter "Minamino"), U.S. Patent Publication No. 2003/0007432. Applicants respectfully traverse this rejection.

Applicants respectfully submit that Minamino does not cure the deficiencies identified above with reference to Yoshito and therefore dependent claims 19, 24, and 28 are allowable.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-9 and 11-41 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants hereby petition for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$1,050 extension fee herewith.

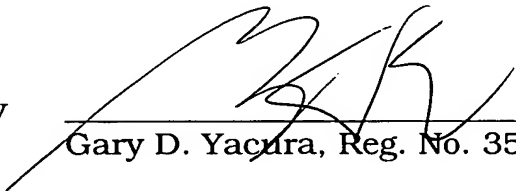
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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